S.B.Civil Writ Petition NO.2216/2005

Prayagraj vs. Jagdish & anr.

DATE OF ORDER : - 15.4.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. Vinay Jain, for the petitioner.

Mr. Y.R. Sonel, for the respondents.

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Heard learned counsel for the parties.

The petitioner is aggrieved against the order dated 28.3.2005 by which the petitioner's application under Order 11 Rule 12 CPC was dismissed by the trial court.

According to the learned counsel for petitioner, the issue no.6 was framed by the trial court on the objection of the petitioner/ defendant that the agreement in question is inadmissible in evidence because the agreement has not been executed on proper stamps and the agreement is not registered.

According to the learned counsel for petitioner, even if the stamp duty has been paid, still the document remains inadmissible in evidence for want of its registration.

According to the learned counsel for petitioner, the trial court could not have rejected the petitioner's application in view of the fact that the court should have decided the issue no.6 at the appropriate stage.

I have considered the rival submissions and perused the impugned order.

It appears from the facts that the objection was raised on the agreement in question on two counts, (1) it is not on proper stamps and (2) it is not registered. The trial court impounded the document and sent it to DIG Stamps, Ajmer for determination of stamp duty and penalty, which was determined by the DIG vide order dated 14.3.2005 and it appears that deficit stamp duty has been paid by the plaintiff. The trial court observed that in view of the above, the document is admitted in evidence subject to the objections of the defendant about validity of order passed by DIG Stamps.

In view of the above, it is clear that the document has been admitted in evidence only subject to the objections and the trial court has not decided whether the document for which stamp duty has been paid has been admitted in evidence despite the act that it is not a

registered document and the trial court has not decided whether registration of the document is necessary or not ?

In view of the above, the petitioner still has every right to raise objection about the admissibility of the document at the time of final arguments as there is issue no.6 for this and the trial court itself has reserved the right of the petitioner and the trial court has not decided that whether the document in question requires registration or not ? And if requires registration, whether it can be admitted in evidence without registration ?

In view of the above discussion, this Court is not inclined to interfere in the impugned order.

Accordingly, the present writ petition, having no merit, is hereby dismissed.

(Prakash Tatia), J.

s.phophaliya/-